



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/423,131

11/05/1999

HIROSHI KAWAKAMI

3815/90

6371

22913

7590

03/17/2003

WORKMAN NYDEGGER & SEELEY

1000 EAGLE GATE TOWER

60 EAST SOUTH TEMPLE

SALT LAKE CITY, UT 84111

EXAMINER

HOM, SHICK C

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 03/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/423,131

Applicant(s)

KAWAKAMI ET AL.

Examiner

Shick C Hom

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 11/5/99, 2/15/00, 5/21/01, 8/13/01, 12/12/01.

2a) ☐ This action is **FINAL**.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-10 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-10 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☒ None of:

1. ☒ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 5, 8, 9.

4) ☐ Interview Summary (PTO-413) Paper No(s). _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other:

Art Unit: 2666

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 03/06/98. It is noted, however, that applicant has not filed a certified copy of the 10-055088 application as required by 35 U.S.C. 119(b).

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

3. Claims 1-5 and 9-10 are objected to because of the following informalities: In claim 2 lines 5 and 9-10, the words "local switch" seem to refer back to "local switch" recited in claim 1 line 4. If this is true, it is suggested changing "local switch" to ---the local switch---. In claims 3 and 4 line 5, the words "traffic control" seems to refer back to "traffic control" recited in claims 1 and 4 lines 1-2, respectively. If this is

Art Unit: 2666

true, it is suggested changing "traffic control" to ---the traffic control---. In claim 4 line 11, claim 9 line 7, and claim 10 lines 5 and 11, the words "data" seems to refer back to "data" recited in claims 4, 9, and 10 line 2, respectively. If this is true, it is suggested changing "data" to ---the data---. In claim 5 lines 5 and 9, the word "account" seems to refer back to "account" recited in claim 4 line 8. If this is true, it is suggested changing "account" to ---the account---. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim.

Kim discloses all the subject matter now claimed. Note Fig. 2 which shows and col. 6 line 59 to col. 7 line 19 which

Art Unit: 2666

recite the generic flow control GFC block receiving a cell generated from call established through the connection admission control shared by a plurality of terminals executing the function of minimizing cell transmission delay, the traffic control block TCB monitoring whether calls observe parameters negotiated between cells, delivering information to the connection control block CCB, and executing one of cell transmission, cell shaping, and cell discard functions, and the switch connected to the traffic control block TCB for switching an incoming cell stream clearly anticipate the traffic control unit for carrying out traffic control of data in a first shared resource of a network including the local switch, the receiving means, the traffic control means, and the transmission means as in claims 1, 4, 9, 10. Further, col. 4 lines 39-51 which recite providing the user-network interface performing resource management for assigning bandwidth, signaling associated with the connection admission control, and operation and maintenance control and which distributing functions to be executed by a network to a broadband-network termination, so that the whole load of the network necessary for controlling the traffic in real time is reduced clearly anticipate the network including the second shared resource which are shared by the plurality of users as in

Art Unit: 2666

claims 1, 9, and the second shared resource includes the transmission path as in claim 2. Col. 3 line 66 to col. 4 line 7 which recite ATM transmission including bandwidth assignment being divided into peak rate assignment clearly anticipate the ATM cells as in claim 8 and traffic control taking account of the peak traffic rate as in claim 5.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made. This application currently names joint inventors. In

considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the

Art Unit: 2666

examiner to consider the applicability of 35 U.S.C. 103[®] and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim as applied to claim 1 above, and further in view of Featherston.

Kim did not recite the radio base station as in claim 2.

Featherston teaches that it is known to provide a digital two-way radio communication system having control at the base station over the flow of traffic as set forth at col. 2 lines 48-59 in the field of digital communications for the purpose of providing reliable wireless communication which clearly anticipate the radio base station as in claim 2.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the radio base station as taught by Featherston to the system of Kim because Featherston teaches providing the desirable added feature of wireless communication to the system operation in Kim.

Art Unit: 2666

8. Claims 3-7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim as applied to claims 1 and 9 above, and further in view of Gillett.

Kim did not teach the burst mode and the cumulative transmission volume in the traffic monitoring period being defined by taking account that the period does not exceed the allowed transmission volume based on the traffic rate as in claims 3, 4 and 10; the peak traffic as in claims 5, 7, and sliding the traffic monitoring period at every peak traffic monitoring period as in claim 6.

Gillett teaches that it is known to provide means to monitor the traffic received and detect parity errors in the incoming traffic over time for periodic interrogation as set forth at col. 4 lines 48-57 in the field of digital and multiplex communications for the purpose of providing protection switching error threshold value and col. 2 lines 19-33 which recite the burst condition having a duration that is shorter than the time required for effecting protection switching introducing more error into the transmission from the lost traffic during the switching time, than is present due to the burst clearly anticipate providing the traffic monitoring period in the burst

Art Unit: 2666

mode which takes account of the transmission volume and rate as in claims 3, 4 and 10, and takes account of the peak traffic as in claims 5, 7. Col. 2 line 51 to col. 3 line 12 which recite the use of sliding time window over which the error ratio is calculated clearly anticipate sliding the traffic monitoring period at every peak traffic monitoring period as in claim 6. Col. 1 lines 13-33 which recite the digital telecommunications systems transmitting data using a data frame standard clearly anticipate data generated from a frame as in claim 8.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the burst mode and the cumulative transmission volume in the traffic monitoring period being defined by taking account that the period does not exceed the allowed transmission volume based on the traffic rate, the peak traffic, and sliding the traffic monitoring period at every peak traffic monitoring period as taught by Gillett to the system of Kim because Gillett teaches providing the desirable added feature of protection switching error threshold value to system operation in Kim.

Art Unit: 2666

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in view of Gillett as applied to claim 4 above, and further in view of Featherston.

Kim in view of Gillett did not teach the ATM cells generated from a frame being a radio frame as in claim 8.

Featherston teaches that it is known to provide a digital two-way radio communication system having control at the base station over the flow of traffic as set forth at col. 2 lines 48-59 in the field of digital communications for the purpose of providing reliable wireless communication which clearly anticipate the ATM cells generated from a frame being a radio frame as in claim 8.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a radio frame as taught by Featherston to the system of Kim in view of Gillett because Featherston teaches providing the desirable added feature of wireless communication to the system operation in Kim in view of Gillett.

Art Unit: 2666

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Choudhury et al. disclose efficiently providing multiple grades of service with protection against overloads in shared resources. Morris et al. disclose a method of and apparatus for virtual link management.

11. ~~Any response to this nonfinal action should be mailed to:~~

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (2600 Receptionist at (703) 305-4750).

Art Unit: 2666

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick Hom whose telephone number is (703) 305-4742. The examiner's regular work schedule is Monday to Friday from 8:00 am to 5:30 pm EST and out of office on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao, can be reached at (703) 308-5463.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Shick Hom

SH

March 8, 2003